

Senate Bill 325

By: Senator Fort of the 39th

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 16-6-4 of the Official Code of Georgia Annotated, relating to child molestation and aggravated child molestation, so as to provide the court with discretion under certain circumstances for offenses involving certain persons convicted of aggravated child molestation; to amend Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment for serious violent offenders, so as to provide for an appropriate cross-reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 16-6-4 of the Official Code of Georgia Annotated, relating to child molestation and aggravated child molestation, is amended by striking subsection (d) and inserting in lieu thereof the following:

"(d)(1) Except as provided in paragraph (2) of this subsection, a A person convicted of the offense of aggravated child molestation shall be punished by imprisonment for not less than ten nor more than 30 years. ~~Any~~ Except as provided in paragraph (2) of this subsection, any person convicted under this Code section of the offense of aggravated child molestation shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

(2) A person convicted of the offense of aggravated child molestation when the victim is 14 or 15 years of age and where the person so convicted is no more than three years older than the victim shall be punished by imprisonment for not less than one nor more than 30 years and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.1.

~~(2)~~(3) The court sentencing a person who has been convicted of a first offense of aggravated child molestation when the victim is 16 years of age or younger at the time of the offense is authorized to require, before sentencing, that the defendant undergo a

1 psychiatric evaluation to ascertain whether or not medroxyprogesterone acetate chemical  
2 treatment or its equivalent would be effective in changing the defendant's behavior. If it  
3 is determined by a qualified mental health professional that such treatment would be  
4 effective, the court may require, as a condition of probation and upon provisions arranged  
5 between the court and the defendant, the defendant to undergo medroxyprogesterone  
6 acetate treatment or its chemical equivalent which must be coupled with treatment by a  
7 qualified mental health professional. In case of a person sentenced to probation who is  
8 required to undergo such treatment or its chemical equivalent and is in the custody of a  
9 law enforcement agency or confined in a jail at the time of sentencing, when he or she  
10 becomes eligible for probation, such person shall begin medroxyprogesterone acetate  
11 treatment and counseling prior to his or her release from custody or confinement. A  
12 person sentenced to probation who is required to undergo such treatment and who is not  
13 in the custody of a law enforcement agency or confined in a jail at the time of sentencing  
14 shall be taken into custody or confined until treatment can begin. Additional treatment  
15 may continue after such defendant's release from custody or confinement until the  
16 defendant demonstrates to the court that such treatment is no longer necessary. No such  
17 treatment shall be administered until such person has been fully informed of the side  
18 effects of hormonal chemical treatment and has consented to the treatment in writing. The  
19 administration of the treatment shall conform to the procedures and conditions set out in  
20 subsection (c) of Code Section 42-9-44.2.

21 ~~(3)~~(4) Any physician or qualified mental health professional who acts in good faith in  
22 compliance with the provisions of this Code section and subsection (c) of Code Section  
23 42-9-44.2 in the administration of treatment or provision of counseling provided for in  
24 this Code section shall be immune from civil or criminal liability for his or her actions  
25 in connection with such treatment or counseling."

## 26 SECTION 2.

27 Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment  
28 for serious violent offenders, is amended by striking subsection (a) and inserting in lieu  
29 thereof the following:

30 "(a) As used in this Code section, the term 'serious violent felony' means:

- 31 (1) Murder or felony murder, as defined in Code Section 16-5-1;
- 32 (2) Armed robbery, as defined in Code Section 16-8-41;
- 33 (3) Kidnapping, as defined in Code Section 16-5-40;
- 34 (4) Rape, as defined in Code Section 16-6-1;
- 35 (5) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4  
36 and punished as provided in paragraph (1) of subsection (d) of Code Section 16-6-4;

- 1 (6) Aggravated sodomy, as defined in Code Section 16-6-2; or  
2 (7) Aggravated sexual battery, as defined in Code Section 16-6-22.2."

3 **SECTION 3.**

- 4 All laws and parts of laws in conflict with this Act are repealed.